

FP09-03 Executive Summary	
General Description	Proposal FP09-03 would alter various management components of the Prince of Wales (POW)/Kosciusko Islands and the Southeast Alaska Federal subsistence steelhead fisheries. <i>Submitted by the Alaska Department of Fish and Game</i>
Proposed Regulation	See analysis for the proposed regulatory language.
Southeast Regional Council Recommendation	Oppose
Interagency Staff Committee Comments	See Comments following the analysis.
ADF&G Comments	Support
Written Public Comments	1 Oppose 1 Support

REGIONAL ADVISORY COUNCIL RECOMMENDATION FP09-03

SOUTHEAST REGIONAL ADVISORY COUNCIL

Oppose Proposal FP09-03. The Council disagreed with the State comments regarding the potential for a conservation concern due to subsistence harvest of steelhead and recommends opposing this proposal. This proposal is an unnecessary restriction on subsistence users as there are no actual examples of conservation problems caused by current regulations. The great majority of steelhead harvested in Southeast Alaska is taken in the commercial fishery. The ADF&G has shown no interest in documenting the total harvest of steelhead. Subsistence harvest at the current level is too small to be considered a conservation issue. Local managers can specify more restrictive management measures as a permit condition, as needed for conservation.

STAFF ANALYSIS FP09-03

ISSUES

Proposal FP09-03, submitted by the Alaska Department of Fish and Game (ADF&G), would alter various management components of the Prince of Wales (POW)/Kosciusko Islands and the Southeast Alaska Federal subsistence steelhead fisheries.

DISCUSSION

The proponent believes the Federal subsistence fisheries for steelhead will lead to over-harvest of steelhead stocks. ADF&G believes that these regulation changes, along with anticipated changes in State regulations, will ensure the conservation of steelhead stocks in Southeast Alaska while still providing a meaningful preference to Federally qualified subsistence users. This proposal addresses six items of concern that have either been considered previously through the Federal regulatory process or through the consultation process as directed by the Federal Subsistence Board.

Items of concern to the proponent include:

1. The use of bait.
2. The locations of allowable harvest.
3. The use of handlines in drainages where size restrictions apply to any specie.
4. The accumulation of Federal annual harvest limits with State sport harvest limits.
5. The mandatory fin clipping of subsistence taken steelhead.
6. The possession of subsistence and sport caught steelhead on the same day.

Further clarification with ADF&G indicated that their intent with accumulation was only to be related to trout and steelhead. The regulatory language the proponent intends might read:

*(vii) **For trout and steelhead**, ~~Y~~ you may **not** accumulate annual Federal subsistence harvest limits authorized for the Southeastern Alaska Area with harvest limits authorized under State of Alaska sport fishing regulations.*

This analysis will cover the following concerns: bait use, locations of harvest, handline use, and fin clipping of subsistence taken steelhead. The issues of daily and annual accumulation with State harvest limits will be covered in the analysis of FP09-02.

Existing Federal Regulation

§____.27(i)(13) Southeastern Alaska Area

(iv) In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. If you use bait, you must retain all Federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species.

(A) For streams with steelhead, once your daily, seasonal, or annual limit of steelhead is harvested, you may no longer fish with bait for any species.

(B) Unless otherwise specified in this § 100.27(i)(13), allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.

(v) Unless otherwise specified in this § 100.27(i)(13), you may use a handline for snagging salmon or steelhead.

(vii) You may accumulate annual Federal subsistence harvest limits authorized for the Southeastern Alaska Area with harvest limits authorized under State of Alaska sport fishing regulations.

(x) You must immediately remove both lobes of the caudal (tail) fin of subsistence-caught salmon when taken.

(xi) You may not possess subsistence-taken and sport-taken salmon on the same day.

(xviii) Unless otherwise specified in this § 100.27(i)(13), you may take steelhead under the terms of a subsistence fishing permit. The open season is January 1 through May 31. The daily household harvest and possession limit is one with an annual household limit of two. You may only use a dip net, gaff, handline, spear, or rod and reel. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(xix) You may take steelhead trout on Prince of Wales and Kosciusko Islands under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.

(xx) There is no subsistence fishery for any salmon on the Taku River.

(A) The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(xx) In addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, brook trout, grayling, cutthroat, and rainbow trout apply:

Proposed Federal Regulation

§ ____ .27(i)(13) Southeastern Alaska Area

(iv) *In areas where use of rod and reel is allowed, you may use artificial fly, lure, or bait when fishing with rod and reel, unless restricted by Federal permit. **Permits shall prohibit use of bait in waters where steelhead may be present unless retention of steelhead is permitted in the waterbody.** If you use bait, you must retain all Federally regulated fish species caught, and they apply to your applicable daily, seasonal, and annual harvest limits for that species. **You may no longer fish with bait for any species when you have harvested your daily, seasonal, or annual limit of any species.***

(A) *For streams with steelhead, **fishing with bait is prohibited unless retention of steelhead is permitted in the stream; retention of steelhead in a stream may be authorized by permit only where ADF&G and OSM agree that the steelhead stock in that stream has a harvestable surplus and that adequate monitoring or surveys are in place to ensure that allowing retention will not result in overharvest.** ~~once your daily, seasonal, or annual limit of steelhead is harvested, you may no longer fish with bait for any species.~~*

(B) *Unless otherwise specified in this § 100.27(i)(13), allowable gear for salmon or steelhead is restricted to gaffs, spears, gillnets, seines, dip nets, cast nets, handlines, or rod and reel.*

(v) *Unless otherwise specified in this § 100.27(i)(13), you may use a handline for snagging salmon or steelhead. **You may not snag where a size limit applies to a species present in the area.***

(vii) *You may **not** accumulate annual Federal subsistence harvest limits authorized for the Southeastern Alaska Area with harvest limits authorized under State of Alaska sport fishing regulations.*

(x) *You must immediately remove both lobes of the caudal (tail) fin of subsistence-caught salmon **and steelhead** when taken.*

(xi) *You may not possess subsistence-taken and sport-taken salmon **or steelhead** on the same day.*

(xviii) *Unless otherwise specified in this § 100.27(i)(13), you may take steelhead **only** under the terms of a subsistence fishing permit **and only in waters specifically designated on that permit during seasons designated on that permit; separate permits may be required for winter and spring seasons.** The open season is January 1 through May 31. The daily household harvest and possession limit is one with an annual household limit of two. You may only use a dip net, gaff, handline, spear, or rod and reel. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*

(xix) *You may take steelhead trout on Prince of Wales and Kosciusko Islands **in streams designated** under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.*

A) *The winter season is December 1 through the last day of February, with a harvest limit of two fish per household. You may use only a dip net, handline, spear, or rod and reel. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales/Kosciusko*

Islands has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of five fish per household. You may use only a dip net, handline, spear, or rod and reel. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales/Kosciusko steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(xxi) In addition to the requirement for a Federal subsistence fishing permit, the following restrictions for the harvest of Dolly Varden, brook trout, grayling, cutthroat, and rainbow trout apply:

Existing State Regulations

5 AAC 01.730 (i) The department shall not issue a permit for the taking of steelhead trout, but steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar.

5 AAC 01.740 Subsistence fishermen shall immediately remove the dorsal fin of all salmon when taken.

5 AAC 77.682 (d) Salmon, trout, or char taken incidentally by gear operated under the terms of a personal use permit for salmon are legally taken and possessed for personal use purposes. The holder of a personal use permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.

5 AAC 77.010 (f) A person may not possess salmon taken under the authority of a personal use salmon fishing permit unless both tips of tail fin have been removed from the salmon before the salmon is concealed from plain view or transported from the fishing site.

5 AAC 47.022 General provisions for seasons and bag, possession, annual, and size limits for the fresh waters of the Southeast Alaska Area.

(b) In the fresh waters east of the longitude of Cape Fairweather:

(4) steelhead may be taken from January 1–December 31; Bag limit of 1 fish; Possession limit of two fish; must be 36 inches or greater in length; Annual limit of two fish; A harvest record is required as specified in 5AAC 47.024(C)

Other Related Proposals

ADF&G has also submitted proposal FP09-02. FP09-02 requests a prohibition on an annual and daily accumulation of sport fishing limits following the harvest of an annual Federal harvest limit within the

Southeastern Alaska Area. The proposal would apply to all Federally regulated fish species that have an annual limit. The daily accumulation prohibition would only apply to non-salmon species in Southeast, as the daily accumulation of salmon is already prohibited by Federal regulation (§____.27(i)(13)(xi)).

Extent of Federal Public Waters

Federal public waters involved are waters within the exterior boundary of the Tongass National Forest in the Southeastern Alaska Area excluding marine waters.

For purposes of this discussion, the phrase “Federal public waters” is defined as those waters described under 50 CFR 100.3.

Customary and Traditional Use Determinations

All customary and traditional use determinations for Southeast Alaska apply and are listed in **Appendix A**.

Regulatory History

State Regulatory History

Prior to the first Federal subsistence fishery for steelhead established in 2002, all steelhead harvest occurred under State of Alaska sport fish regulations or incidental to subsistence or commercial fisheries.

Although there are customary and traditional use determinations for steelhead in State subsistence regulations for portions of Districts 3B and 3C, and all of Districts 7 and 8 in Southeast Alaska, State regulations prohibit issuing subsistence permits for steelhead. However, steelhead taken incidentally under the terms of a subsistence permit for salmon may be legally retained. Permit holders are required to report any steelhead incidentally taken, but are not required to mark them by clipping fins.

From 1978 through 1992, the sport fishing daily harvest and possession limit was one steelhead per day. During the 1993/94 regulatory cycle for Southeast Alaska, the Alaska Board of Fisheries modified sport and commercial fishing regulations. Region-wide sport fishing regulations were changed to allow a harvest of one fish per day and two fish per year, 36 inches or greater in length to reduce the harvest. However, the daily harvest limit is two fish if at least one has a clipped adipose fin, as evidenced by a healed scar. There is no size limit for steelhead with a clipped adipose fin. A clipped adipose fin identifies a hatchery produced steelhead. The Alaska Board of Fisheries also prohibited the use of bait from Nov. 16–Sept. 14. Lastly, the Alaska Board of Fisheries prohibited the sale of steelhead caught in commercial net fisheries. In commercial purse seine and gillnet fisheries of Southeast Alaska, Commercial Fisheries Entry Commission permit holders may now retain steelhead for personal use, but not sell them. Steelhead caught in the commercial troll fishery (typically from July through September) may be sold.

During the 2003 Alaska Board of Fisheries cycle, the region-wide sport regulation for steelhead was revised. The revision was a regulatory “housekeeping” action, submitted by ADF&G, to specify that the two fish daily harvest limit would only apply to the Klawock River and Ketchikan Creek: the only two locations where adipose clipped steelhead may be found.

In January 2006, the Alaska Board of Fisheries adopted a regulation (5AAC 33.395) that gave authority to the Commissioner of ADF&G to require steelhead harvested in the commercial salmon fisheries and retained for personal use to be reported on fish tickets. The intent of the regulation is to account for the

harvest of all steelhead trout. To date, the Commissioner has only implemented this requirement in the District 8 Stikine Terminal Chinook fishery.

Currently, the Alaska Board of Fisheries has a steelhead related proposal (Proposal 290) that they will consider in February 2009. This proposal, submitted by ADF&G, would limit the retention of steelhead to only 16 systems in the Southeast Alaska Area. The proposal does not prohibit catch and release fishing of steelhead on the other drainages where retention would be prohibited. The proposal is intended to benefit both subsistence and sport users by preventing stock depletions as “conservation concerns may occur as a result of the creation and subsequent expansion and liberalization of Federal subsistence harvest of steelhead in Southeast Alaska.” The proposal would also change the methods allowed in sport fishing regulations for three drainages on POW to single hook only waters (ADF&G 2008).

Federal Regulatory History

The Federal Subsistence Board (Board) adopted FP03-25 resulting in a Federal subsistence fishery for steelhead on Prince of Wales Island in 2002. The following year, the Board adopted FP04-33 to add Kosciusko Island to this fishery. This fishery has two seasons (Winter – Dec. 1–Feb. 28/29; Spring – Mar. 1–May 31) with separate seasonal harvest limits (Winter – 2 steelhead; Spring – 5 steelhead per household), permits (winter and spring), and special conditions identified by the in-season manager which are included on the permit. Legal gear includes dip net, rod and reel, handline, and spear. The two fisheries may be closed when a harvest cap is reached (100 steelhead for winter season and 600 minus the winter harvest for the spring season). Harvest reports are due by March 15 for the winter fishery and by June 15 for the spring fishery, or within 15 days after harvest of a seasonal limit of steelhead.

In 2005, the Board adopted FP05-28 resulting in a Federal subsistence fishery for steelhead in the remainder of Southeast Alaska. Special conditions identified by the in-season manager are included on the permit. Under the terms of a Federal permit, a household may take one steelhead daily and no more than two annually from Jan. 1–May 31. Legal gear includes dip net, rod and reel, handline, spear, and gaff. Harvest reports are due by June 15 or within 15 days after harvest of an annual limit of steelhead.

Rather than implementing separate regulations by drainage in the fisheries, the Board directed that “*permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.*” This management authority to set permit conditions for conservation is delegated to local area fishery managers. Federal fisheries managers have implemented these regulations by applying stipulations to Federal subsistence fishing permits after consultation with ADF&G. Since 2003, in both the POW/Kosciusko and Southeast Alaska subsistence steelhead fisheries, local Federal managers have applied special conditions to permits. Examples of special restrictions include: gear restrictions, no retention of steelhead, minimum size limits, and mandatory 24 hour reporting of harvest. These special conditions can be found in **Appendix B**.

Mandatory fin clipping and possession of subsistence and sport taken trout and steelhead

Subsistence users are not required to mark subsistence taken trout, steelhead or char by fin clipping. Federal subsistence users must only remove the caudal fin of salmon when taken. The primary purpose of marking is to prevent subsistence taken salmon from mixing with commercially taken salmon in the market place. There is no commercial market for trout and char, except for a very limited commercial sale of troll caught steelhead. There are no directed commercial fisheries for steelhead in Southeast Alaska. Those caught incidentally in commercial net fisheries may not be sold, but may be retained for personal use.

In December 2003, the Board rejected FP04-34, which would have required fin clipping of subsistence taken trout and char and prohibited the accumulation of Federal subsistence and State sport fishing limits for trout and char on the same day. During the Southeast Alaska Subsistence Regional Advisory Council (Council) meeting in Craig, the Council opposed the proposal. Although the Council book indicated that ADF&G wanted to support the proposal, ADF&G changed its recommendation to neutral during discussion on the proposal (SERAC 2003). The Board did not discuss this proposal because it was on the consent agenda (FSB 2003).

Use of handlines

In January 2005, the Board adopted FP05-20 which further defined the use of handlines for subsistence harvesting. Although the original proposal requested the use of handlines for harvesting salmon, the Board adopted a recommendation from the Council to add handlines as a legal gear type for steelhead. The decision was based on findings from both ADF&G's steelhead harvest methods study (Turek 2005) and testimony at the Council meeting (FSB 2005).

Use of bait in subsistence rod and reel fisheries

Prior to 2006, the use of bait was only allowed with rod and reel from September 15 to November 15 in both the State sport fishery and the Federal subsistence salmon fishery. This time frame allows the use of bait for targeting coho salmon while minimizing catch and release mortality of trout and steelhead.

In January 2006, the Board adopted FP06-24 with modification as recommended by the Council. This action removed the prohibition of the use of bait to increase the harvest efficiency of rod and reel gear. To eliminate catch and release mortality of trout and steelhead, language was added that requires the fisher to retain all fish caught with bait. The language also indicated that "once your daily or annual limit of steelhead is harvested, you may no longer fish with bait for any species." Any concern over particular drainages would be covered through permit conditions set by the local Federal manager (FSB 2006).

Biological Background

Steelhead are the anadromous form of rainbow trout (*Oncorhynchus mykiss*). Steelhead are known to return to 331 freshwater systems in Southeast Alaska (ADF&G 2002). Peak numbers of steelhead occur in streams in late April and May. Fall and spring run fish (freshwater or ocean maturing) generally spawn at the same time but residence time in streams is longer for fall run (freshwater maturing) fish. Spring run fish (ocean maturing) are most abundant in Southeast Alaska, but it is not uncommon for the same streams to contain a smaller number of fall run fish (Lohr & Bryant 1999).

A three year steelhead assessment project (05-604), funded by the Fisheries Resource Monitoring Program, began in 2005 on POW. This was a joint Federal, State, and Tribal agency study. Investigators placed weirs on two streams each year. The goal was to study both a "small" (thought to contain <150 adult steelhead) and a "large" (>150) population each year. Road access and identified harvest were factors in choosing the study sites. Although the original goal was six different drainages, weather and road conditions only allowed for five to be studied. One drainage was assessed twice. Weirs were placed in the Harris River and Big Ratz Creek during 2005, Cable Creek and Eagle Creek in 2006, and Natuzhini Creek and Big Ratz Creek during 2007.

Steelhead were counted as they passed through the weirs. Length measurements were taken, gender recorded, scales collected for aging, and fish were marked with either a caudal clip or punch. Preliminary

length data from this project suggests that 1.4 percent of the 1,229 steelhead sampled met the minimum sport size limit (Piazza 2008, pers. comm.).

Data from these projects has been used to manage the POW fishery. For example, data from the 2005 project was used to change the management of the Harris River steelhead fishery. The Harris River was thought to be a “large” system, but the weir count was lower than expected. Accordingly, in 2006, the Harris River was placed on the list of small, road accessible streams requiring extra protection measures. Big Ratz Creek, on the other hand, was originally thought to be a “small” system but, weir counts indicated otherwise, and this creek was removed from the list of small, road accessible streams with extra protection measures. These management changes are displayed in **Appendix B**.

Harvest History

Goldschmidt and Haas (1998) documented use of trout by Tlingit from Skagway to Saxman. The Tlingit name for steelhead is *Aashat* (written *ah shut* in Emmons [1991]). Trout fishing occurred at least in the winter, spring, and fall and was accomplished using a variety of gear, including weirs, spears, baskets/traps, lines with small wooden hooks, and nets (Emmons 1991, Goldschmidt & Haas 1998).

While researching steelhead harvest methods on POW (FIS project 01-105), Turek (2005) found evidence of handlines and rod and reel with bait being used for taking steelhead:

Gear — Steelhead were traditionally harvested with spears and gaffs, they were also caught in weirs and traps along with salmon. Since at least the 1950s, rod and reel tackle have been used in the larger rivers. Spin casting gear (with and without bait) has been commonly used since the 1950s. Today, some subsistence fishers are using fly rods and artificial flies. The small, brushy, log choked creeks on Prince of Wales Island are difficult to fish with rod and reel tackle. Spears, gaffs and hand lines (snagging gear) are the preferred gear for the smaller creeks. Snagging gear—locally made treble hooks, consisting of three halibut hooks bound together with line and secured to a hand line—has been used for at least 75 years on the island. Known in Hydaburg as the “Hydaburg Snagger,” these treble hooks are also used in Klawock, and at one time marketed in a local store as the “Klawock Spinner.” The snagging gear (hand line and treble hook) can be thrown or used in conjunction with a pole of various lengths. The pole is often made in the field from a limb or branch of a tree or bush. The pole, held by the fisher, has the hand line running down the pole and through a forked end with treble hooks hanging off the forked end of the pole. By using a pole the fisher can place the hook close to a fish before setting the hook. When hand line, treble hook and pole are used in this fashion, the gear functions as a gaff. Spears, gaffs and snagging gear are the preferred gear for fishers fishing the small, brushy creeks on Prince of Wales Island.

State Subsistence Harvest

There are no directed State subsistence fisheries for steelhead in the Southeast Alaska Area. Steelhead incidentally harvested while subsistence fishing for salmon may be retained and must be recorded on the State subsistence and personal use salmon permit. No steelhead harvest was reported from 1985 to 2001 (Zadina 2002, pers. comm.). Since 2002, eight steelhead have been reported on State fishing permits for the Southeast Area (Kelley 2008, pers. comm.).

Federal Subsistence Steelhead Harvest

There are three Federal steelhead fisheries that occur under the terms of a Federal subsistence fishing permit. Local Federal managers monitor harvest during these fisheries. Monitoring includes visual assessments, interviews with and phone calls to anglers to determine harvest rates by fishermen, and observations using in-stream snorkel counts. Law enforcement officers check anglers to insure they have the proper permits or licenses. Using monitoring information, the local Federal managers have the authority to close down these fisheries when and if conservation concerns arise. Federal permit returns for the three fisheries has been nearly 100 percent (Forest Service 2008) reporting low harvest and effort. The present Federal management is commensurate with the level of harvest. Each of the three Federal steelhead fisheries is described in more detail below. **Table 1** summarizes the Federal steelhead fisheries by year, gear type, and associated harvest.

Table 1. Federal steelhead harvests by fishery, year, and gear type (Forest Service 2008).

Fishery	Gear	Harvest Per Year						Total
		2003	2004	2005	2006	2007	2008	
POW Spring Steelhead	Dip Net			1	2			3
	Gillnet				2			2
	Hand Line			1		1	1	3
	Rod and Reel	24	25	20	32	16	25	142
	Spear		1	5	2	1		9
POW Winter Steelhead	Rod and Reel	2	5	2		1		10
SE Steelhead	Gaff			2				2
	Rod and Reel			6	10	6	1	23
Total		26	31	37	48	25	27	194

POW/Kosciusko Spring Season Federal Subsistence Steelhead Fishery

This steelhead fishery began in 2003. Although 76 permits were issued during the first season, the average number of issued permits per season since has been 52. Harvest from 2003–08 has averaged 27 steelhead per season. Of the 335 permits issued throughout the history of this fishery, five have reported taking a full household harvest limit of five steelhead, and only one has reported taking that limit within the same day. Reported harvests have been in March, April, and May. The use of bait to harvest steelhead by Federally qualified users has been very low. During 2007, only four Federal permits reported using bait during the fishery. Incidental harvest during this fishery has been very low, with the harvest of eight trout and 11 Dolly Varden being reported on Federal permits (Forest Service 2008). Lists of harvest locations and number by gear type by year are displayed in **Table 2**. In-season action has occurred only once in the history of this fishery. In April 2006, the local Federal manager closed Cable Creek to all fishing during the steelhead run when the illegal harvest of 10 steelhead was reported.

POW/Kosciusko Winter Season Federal Subsistence Steelhead Fishery

This steelhead fishery began in 2003, with harvest and effort being very low. From 2003–07, Federal steelhead harvests have ranged from zero to five per season, with the number of permits issued ranging from ten to 18 per season. Reported harvests have all been in the month of February. Since 2003, only three of the 71 issued permits have reported taking a household limit of two steelhead. No use of bait has been reported in this fishery. This fishery is greatly affected by weather. In 2006 and 2007, fishing effort

Table 2. Prince of Wales spring steelhead harvest by year, location, and gear type (Forest Service 2008).

Fishery	Gear	Water Body	Harvest Per Year						Total
			2003	2004	2005	2006	2007	2008	
POW Spring Steel-head	Dip Net	Hydaburg River				2			2
		Ratz Creek			1				1
	Gillnet	Ratz Creek				2			2
		Hand Line	Alder Creek			1			
	Maybeso Creek						1		1
	Staney Creek							1	1
	Rod and Reel	Cable Creek			1			1	2
		Eagle Creek		1	1	4		2	8
		Harris River		2	3		2	1	8
		Karta River		1	2	4	1	1	9
		Klawock River	11	8	5	6	4	3	37
		Luck Creek				1			1
		Ratz Creek				1			1
		Staney Creek	3	10	5	13	6	8	45
		Thorne River	10	3	3	3	3	9	31
		Spear	Eagle Creek				1		
	Flicker Creek				1				1
	Harris River			1					1
	Luck Creek					1			1
	Maybeso Creek						1		1
	Ratz Creek				2				2
	Saltery Creek				2				2
Total			24	26	27	38	18	26	159

was very minimal with only one steelhead reported during both seasons. This was most likely due to heavy snowfall which prevented access to fishing sites. Lists of harvest locations and the reported number of steelhead harvested by gear type are displayed in **Table 3** (Forest Service 2008).

Southeast Alaska Federal Subsistence Steelhead Fishery

This steelhead fishery began in 2005. From 2005–08, the average reported steelhead harvest has been six per season. The total number of permits issued each year has ranged from 13 to 33. Reported harvests have occurred in April and May. Since 2005, of the 94 permits issued, only five have reported taking a household limit of two steelhead. Lists of harvest locations and the reported number of steelhead harvested by gear type by year are displayed in **Table 4** (Forest Service 2008).

Table 3. Prince of Wales Winter steelhead harvest by year, location, and gear type (Forest Service 2008).

Fishery	Gear	Water Body	Harvest Per Year				Total
			2003	2004	2005	2007	
POW Winter Steelhead	Rod and Reel	Klawock River	2	5	1	1	9
		Thorne River			1	1	
Total				2	5	2	1

Table 4. SE Alaska Federal steelhead harvest by year, location, and gear type (Forest Service 2008).

Fishery	Gear	Water Body	Harvest Per Year				Total
			2005	2006	2007	2008	
SE Steelhead	Gaff	Point White Creek	2				2
	Rod and Reel	Ford Arm			1		1
		Freshwater Creek		1			1
		Game Creek		2	1		3
		Iyouktug Creek				1	1
		Kadake Creek	2				2
		Lake Eva	1				1
		Leo Creek		1			1
		Mud Bay River			1		1
		Point White Creek	2				2
		Salamander		1			1
		Salmon Lake Creek		2	3		5
		Sitkoh Creek	1				1
		Spasski Creek		2			2
		Suntaheen Creek		1			1
Total		8	10	6	1	25	

Sport Harvest

Although the State requires sport fishers that harvest steelhead to record their fish on the back of their fishing license in ink, they are not required to submit or report their harvest directly to ADF&G. The yearly sport steelhead harvest is determined by the Statewide Harvest Survey which is mailed out randomly to fishing license holders each year. Depending on the number of responses per drainage, some estimates could possibly overstate the harvest due to limitations in expanding low numbers of responses (ADF&G 2007).

From 1989 to 1994, the average reported steelhead harvest was 2,700 per year for Southeast Alaska (Howe et al. 2001). Since the more restrictive sport fishing regulations went into effect in 1994 the reported harvest of steelhead in the sport fishery has been relatively small in southeast Alaska. The average steelhead harvest from streams in Southeast Alaska from 1995 to 2004 was 138 per year (Jennings et al. 2007) which is nearly five times higher than the average Federal subsistence harvest. From 2001 to 2004 the average reported sport harvest in Southeast Alaska was 168 steelhead. The average

reported catch during that time was 3,903 steelhead per year (Jennings et al., 2007). To be conservative, managers commonly assume a hooking mortality of 2–5 % for fish caught with artificial lures (Hooten 2001, ADF&G 2008b). If 2–5% of the fish caught died after release due to catch and release mortality, the resulting mortality average each year would range from 98 to 195 steelhead during that period.

Commercial Harvest

There is no directed commercial fishing for steelhead. Nevertheless, incidental harvest in commercial salmon fisheries occurs, and has ranged from a low of 533 in 1975 to a high of 11,540 in 1986 for all of Southeast Alaska. The majority of the catch (65%) occurred in the gillnet fisheries and the least (1%) in the troll fisheries (PSCNBTC 1991, Lynch 2002, pers. comm.). Since the Board of Fisheries action in 1994 prohibiting the sale of net caught steelhead, there is a very limited commercial sale of steelhead taken in the commercial troll fishery. From 1997 until 2002, commercial fishermen in Southeast Alaska sold about 50 steelhead per year (Lynch 2002, pers. comm.). Since then, the number of steelhead sold by trollers has ranged from three to 108 (Kelley 2008, pers. comm.).

Since 2006, the Commissioner of ADF&G has only required mandatory reporting of incidentally net-taken steelhead in the Stikine River Terminal Chinook Salmon commercial fishery. Fourteen were reported during the 2006 fishery and eight were reported during the 2007 fishery (Kelley 2008, pers. comm.).

Effects of the Proposal

Adopting this proposal would add additional restrictions to the Federal subsistence harvest of steelhead in both the POW/Kosciusko and the Southeast Alaska subsistence steelhead fisheries which are described below.

Use of bait, use of handlines, and locations of allowable harvest

Besides removing the use of bait for harvesting steelhead during these fisheries, the proposed language, as written, would prohibit Federally qualified subsistence users from using bait in later subsistence fisheries (e.g., Federal salmon fishery) at times where sport fishers may still use bait. The bait prohibition was removed from regulation to increase harvest efficiency with rod and reel. The use of bait to harvest steelhead by Federally qualified users has been very low. During 2007, only four Federal permits reported using bait during the steelhead fisheries (Forest Service 2008).

The proposed language, as written, would prohibit Federally qualified subsistence users from using handlines for snagging in subsistence fisheries in drainages that have a size restriction for any species within that drainage. This method is used to selectively harvest fish in small streams where the use of rod and reel is difficult. Reported Federal harvest of steelhead with handlines has been very low and does not pose a conservation concern. Of the historic total of 194 steelhead reported harvested under Federal permits, only three were harvested with handlines.

This proposal would further restrict the Federal subsistence fisheries for steelhead. Identifying where Federally qualified subsistence users may direct harvest, while other steelhead fisheries remain open, does not recognize subsistence uses as a priority over other uses as required in ANILCA. Although the current proposal (Proposal 290) to the State Board of Fish would only allow sport harvest of steelhead at 16 identified drainages, it does not affect catch and release fishing by sport fishers on the drainages where retention would be prohibited. Allowing a catch and release sport fishery where subsistence use is prohibited does not constitute a meaningful priority.

Many fisheries are managed for harvest without knowing the exact number of fish present. Sound management principles do not require that every fish or population of fish be counted before harvest can occur. The present Federal management is commensurate with the level of harvest.

Local Federal managers have delegated authority from the Federal Subsistence Board to specify permit stipulations as needed. Concern over the use of handlines and rod and reel with bait within particular drainages has been addressed by permit stipulations set by the local Federal manager. Permit stipulations have been applied to specific streams of concern to reduce harvest for potential conservation reasons. Escapement estimates, along with ease of access (road accessibility) have been determining factors in identifying streams of concern. When size restrictions have been placed on drainages, bait use and handlines have been prohibited during those particular fisheries.

Harvest of steelhead under Federal permits has been very low in comparison to the sport fishery harvest, and does not seem to be posing a conservation concern for steelhead populations. If Federal harvest increases to the point where a reduction is needed, either in a particular stream or an area, in-season action (e.g., 2006 Cable Creek closure) can be taken to address the situation.

Mandatory fin clipping of subsistence taken steelhead

Requiring Federally qualified subsistence users to fin clip steelhead is an unnecessary restriction. Currently, subsistence users are not required to mark steelhead by fin clipping under either State or Federal regulations. Federal subsistence users must remove the caudal fin of salmon when taken. The primary purpose of marking is to prevent subsistence caught salmon from mixing with commercially taken salmon in the market place. While there is valid law enforcement need to identify subsistence taken salmon to prevent them entering commercial markets, there is no evidence that marking is needed to prevent subsistence taken steelhead from entering the commercial market.

It is also important to be able to determine under what regulations fish are taken. Law enforcement officers can distinguish subsistence users from sport users by simply asking to see a person's Federal permit or State sport fishing license. The Federal subsistence fishing permit identifies Federally qualified subsistence users and must be in their possession during fishing. Any harvest must be recorded before leaving the fishing site. Sport caught steelhead should be easy to identify by law enforcement as State regulations require a steelhead to be a minimum of 36 inches long to retain, limit harvest to one steelhead daily (two annually), and fishers must record the fish immediately upon harvest, in ink, on the back of their sport fishing license. Federal law enforcement has not had any problems distinguishing between subsistence and sport uses, and believes there is not sufficient law enforcement need to support the proposed regulatory change (Bryden 2008, pers. comm.).

OSM CONCLUSION

Oppose Proposal FP09-03.

Justification

The reported harvest from the Federal subsistence steelhead fisheries has been small. Given the low participation and reported harvest in these fisheries, additional conservation-based restrictions are not warranted at this time. Local Federal managers monitor harvest during these fisheries. Using monitoring information, the local Federal managers have the authority to close down these fisheries when and if conservation concerns arise. The present Federal management is commensurate with the level of harvest.

Heavily restricting the Federal subsistence fisheries for steelhead, while other steelhead fisheries remain open, does not recognize subsistence uses as a priority over other uses as required in ANILCA.

The proposal would create unnecessary regulations as local Federal managers have the delegated authority from the Board to manage the Federal subsistence steelhead fisheries by permit stipulations and to take in-season action when necessary. Typical permit stipulations have included reduced harvest limits and/or size restrictions. When size restrictions are implemented, both handlines and the use of bait are prohibited under Federal permit conditions to prevent mortality of undersize steelhead. To date, harvest with these gear types has been very low.

The proposed marking requirement would burden subsistence users, without a demonstrated need. Federal law enforcement has not experienced any problems distinguishing between subsistence and sport uses, and believes there is not sufficient law enforcement need to support the proposed regulatory changes. The Federal subsistence fishing permit identifies Federally qualified subsistence users and must be in their possession during fishing. Any harvest must be recorded before leaving the fishing site. Requiring the fin clipping of subsistence taken steelhead is unnecessary for the identification of steelhead harvest methods.

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Appendix A. Customary and Traditional Use Determinations for Southeast Alaska

Area	Species	Determination
District 1, Section 1E in waters of the Naha River and Roosevelt Lagoon	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Saxman.</i>
District 1, Section 1F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Saxman.</i>
Districts 2, 3, and 5 and waters draining into those districts.	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage.</i>
District 5, north of a line from Point Barrie to Boulder Point	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.</i>
District 6 and waters draining into that district	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents living south of Sumner Strait and west of Clarence Strait and Kashevaroff Passage; residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake.</i>
District 7 and waters draining into that district	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island); residents of drainages flowing into Districts 7 & 8, including the communities of Petersburg & Wrangell; and residents of the communities of Meyers Chuck and Kake.</i>
District 8 and waters draining into that district	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of drainages flowing into Districts 7&8, residents of drainages flowing into District 6 north of the latitude of Point Alexander (Mitkof Island), and residents of Meyers Chuck.</i>
District 9, Section 9A	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.</i>

Appendix A. Continued

Area	Species	Determination
District 9, Section 9B north of the latitude of Swain Point	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor</i>
District 10 west of a line from Pinta Point to False Point Pybus	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.</i>
District 12 south of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30' W. Long., including Killisnoo Island.</i>
District 12 , Section 12A excluding the area south of a line from Fishery Point to South Passage Point Section 12B	All fish	<i>Residents of drainages flowing into Districts 12 and 14.</i>
District 13 , Section 13A south of the latitude of Cape Edward	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City and Borough of Sitka in drainages which empty into Section 13B north of the latitude of Dorothy Narrows.</i>
District 13 , Section 13A excluding the area south of the latitude of Cape Edward.	All fish	<i>Residents of drainages flowing into Sections 13A, 13B, and District 14.</i>
District 13 , Section 13B north of the latitude of Redfish Cape.	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City and Borough of Sitka in drainages which empty into Section 13B north of the latitude of Dorothy Narrows.</i>
District 13, Section 13C	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City and Borough of Sitka in drainages which empty into Section 13B north of the latitude of Dorothy Narrows.</i>
District 13 , Section 13C east of the longitude of Point Elizabeth	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30' W. Long., including Killisnoo Island.</i>
District 14 , Section 14B and 14C	Salmon, Dolly Varden, trout, smelt, and eulachon	<i>Residents of the City of Hoonah and in Chichagof Island drainages on the east shore of Point Frederick from Garting Creek to Point Sophie.</i>

Appendix A. Continued

Area	Species	Determination
Remainder of the Southeastern Alaska Area	Dolly Varden, trout, smelt, and eulachon	<i>Residents of Southeastern Alaska and Yakutat Areas.</i>

Appendix B. History of special restrictions in Federal subsistence steelhead fisheries.

2003 Federal Subsistence Fishery – Steelhead – Prince of Wales Island

Regulatory Language:

(iv) You may take steelhead trout on Prince of Wales Island only under the terms of Federal subsistence fishing permits. You must obtain a separate permit for the winter and spring seasons.

(A) The winter season is December 1 through the last day of February, with a harvest limit of 2 fish per household. You may use only a dip net, spear, or rod and reel with artificial lure or fly. You may not use bait. The winter season may be closed when the harvest level cap of 100 steelhead for Prince of Wales Island has been reached. You must return your winter season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

(B) The spring season is March 1 through May 31, with a harvest limit of 5 fish per household. You may use only a dip net, spear, or rod and reel with artificial lure or fly. You may not use bait. The spring season may be closed prior to May 31 if the harvest quota of 600 fish minus the number of steelhead harvested in the winter subsistence steelhead fishery is reached. You must return your spring season permit within 15 days of the close of the season and before receiving another permit for a Prince of Wales steelhead subsistence fishery. The permit conditions and systems to receive special protection will be determined by the local Federal fisheries manager in consultation with ADF&G.

Permit Conditions 2003 Spring Season:

21 small road accessible streams were restricted by permit condition as follows: 36 minimum Size limit, 2 fish annual limit, prohibited the use of spears. The streams were: Dog Salmon Creek, Crab Creek, Shaheen Creek, Sal Creek, Flicker Creek, Big Creek, El Cap Creek, Rock Creek, Port Saint Nicholas Creek, Big Ratz Creek, Naukati, Creek, Alder Creek, Red Bay Lake / Creek, 108 Creek, Maybeso Creek, Black Bear Creek, Little Ratz Creek, Yatuk Creek, Buster Creek, Turn Creek, and Exchange Creek.

Permit Conditions 2003/2004 Winter Season:

108 Creek and Dog Salmon Creek were restricted with a minimum size limit of 36 inches, 2 fish annual harvest limit and a prohibition of the use of spears

2004 Federal Subsistence Fishery – Steelhead – Prince of Wales and Kosciusko Islands

Regulatory Language:

Same as 2003, Kosciusko Island was added

Permit Conditions 2004 Spring Season:

Three streams were added to the 2003 list of small streams with the same permit restrictions as in 2003. They were: Cable Creek, Trocadero Creek, and 12 Mile Creek.

Permit Conditions 2004/2005 Winter Season:

No restrictions beyond the regulations above.

2005 Federal Subsistence Fishery – Steelhead – SE Alaska and Prince of Wales/Kosciusko Islands

Regulatory Language:

Prince of Wales / Kosciusko Island regulations were the same as 2003. The following regulation was added for the remainder of Southeast Alaska:

You may take steelhead under the terms of a subsistence fishing permit. The open season is January 1 through May 31. The daily household harvest and possession limit is one with an annual household limit of two. You may only use a dip net, gaff, handline, spear, or rod and reel. The permit conditions and systems to receive special protection will be determined by the local Federal

fisheries manager in consultation with ADF&G

Permit Conditions 2005/2006 POW Winter Season:

No restrictions beyond the regulations.

2006 Federal Subsistence Fishery – Steelhead – SE Alaska and Prince of Wales / Kosciusko Islands

Regulatory Language:

Same as the regulations for 2005, except that the prohibition on the use of bait was removed

Permit Conditions 2006/2007 POW Spring Season:

Same regulations for 2005, however Big Ratz Creek was removed from small road accessible stream list, and the Harris River was added to the list based on weir data from the 2005 POW steelhead assessment projects.

Permit Conditions 2006/2007 POW Winter Season:

The use of bait was prohibited by permit restriction

2007 Federal Subsistence Fishery – Steelhead – SE Alaska and Prince of Wales / Kosciusko Islands

Regulatory Language:

Same as 2006

Permit Conditions 2007/2008 POW Winter Season:

The use of bait was prohibited by permit restriction in Dog Salmon and 108 Creeks

Summary of harvest permit stipulations for steelhead in Southeastern Alaska, 2005.				
Area	Harvest Permit Stipulations			
	Harvest Limit	Minimum Size	Methods	Reporting Requirement
Prince of Wales small road accessible streams (Spring Season)	1 per day 2 per season per household	None	Dipnet, rod/reel, spear, handline	Within 24 hours and end of season
Ketchikan and Juneau road systems (all streams)	1 per day 2 per year per household	30 inches	Dipnet, rod/reel	Within 24 hours and end of season
Wrangell and Petersburg road systems (all streams)	1 per day 2 per year per household	32 inches	Rod/reel	Within 24 hours and end of season
Petersburg Creek	1 per day 2 per year per household	32 inches	Dipnet, rod/reel	Within 24 hours and end of season
Sitka road system (all streams)	0	N/A	N/A	N/A
				24 (same list as 2004)
				9
				8
				1
				3

Summary of harvest permit stipulations for steelhead in Southeastern Alaska, 2006 and 2007.

Area	Harvest Limit	Minimum Size	Methods	Reporting Requirement	Number of Steelhead Streams With Additional Stipulations
Prince of Wales small road accessible streams (Spring Season)	1 per day 2 per season per household	None	Dipnet, rod/reel without bait, spear, handline	End of season or within 15 days of taking annual limit	24*
Ketchikan, Juneau, Wrangell and Petersburg road system streams and Petersburg Creek	1 per day 2 per year per household	32 inches	Rod/reel without bait	End of season or within 15 days of taking annual limit	18
Sitka road system (all streams)	1 per day 2 per year per household	36 inches	Rod/reel without bait	End of season or within 15 days of taking annual limit	3

*Big Ratz Creek was removed from the list and Harris River was added to the list based on stock assessments.

INTERAGENCY STAFF COMMITTEE COMMENTS

FP09-03

The Interagency Staff Committee (ISC) found the staff analysis to be a thorough and accurate evaluation of the proposal, and provides sufficient factual basis for the Regional Council recommendation and Federal Subsistence Board action on the proposal.

The ISC recognizes the importance of sound management approaches for southeast Alaska steelhead populations. The low levels of subsistence effort and harvests (as indicated by permit returns and extensive field surveys) are currently focused on a few systems which are recognized as having numbers of fish sufficient to sustain such uses. Data also demonstrate that concerns about substantial harvest increases from recently approved gear types have not been realized.

Managers have evaluated different approaches to enumerate adult steelhead in the region, and have concluded that there are significant trade-offs in technical complexity, effort, costs, and data accuracy associated with each methodology. Such factors should therefore be considered in any management strategy incorporating stock assessments, collection of data on harvest levels, and evaluations of the effectiveness of site-specific regulations.

We also share ADF&G's interest in ensuring the viability of steelhead found in many small southeast Alaska systems. However, questions arise as to whether these groups of fish in individual streams actually constitute discrete "populations". Available literature from conservation biology indicates that "populations" comprised of 10 or 20 adults would be expected to go extinct, even if harvest mortality was completely absent. This suggests that other mechanisms may be important for maintaining the numbers of steelhead in these systems. Field observations from studies in the region indicate that adult fish appear to move between different watersheds during their spawning migrations. Further research is needed to verify if a meta-population approach to managing these fish across a suite of shared streams—rather than management which is based on the assumption that each stream is occupied solely by a separate and isolated population—may more accurately reflect the ecology of southeast Alaska steelhead.

ADF&G Comments FP09-03
December 2, 2008, Page 1 of 5

Alaska Department of Fish and Game
Comments to the Federal Subsistence Board

FP09-03 Southeast Alaska Steelhead Conservation

Introduction: Southeast Alaska steelhead conservation has continuously arisen as a divisive issue between the Alaska Department of Fish and Game (Department) and the Federal Subsistence Board (Federal Board). While the Department believes that overall Southeast steelhead harvest levels could probably be safely sustained at current levels, it has serious concerns regarding harvests from smaller stocks on unmonitored streams. The Department unwaveringly continues to submit proposals, comments, correspondence, presentations, requests for reconsideration, data, and data request responses with the overall intent of conserving vulnerable steelhead populations in small streams in Southeast Alaska, while allowing some limited harvest on most streams and focusing harvest opportunities onto larger monitored streams with more robust steelhead populations. The Department has submitted or supported proposals advancing selective restriction options, such as minimum length restrictions, harvest limits, seasons, single hook requirements, limited stream closures, and prohibitions on use of bait, which are similar to those found in State of Alaska (state) regulations to provide for the conservation of these small stocks. Some streams may consist of populations of 10 or fewer fish which could be decimated by fishing under federal regulations with highly efficient gear types and less restrictive harvest limits. The Department believes that the meaningful priority for subsistence use of steelhead should be provided by mirroring protective state regulations on smaller unmonitored streams¹ and by providing enhanced harvest opportunity greater than that allowed under state regulations only on larger monitored streams.

The Department has continually expressed concern to the Federal Board regarding the importance of conservative regulations for the steelhead fisheries in Southeast Alaska, and particularly for those fisheries in small unmonitored streams. The Department has exhausted all administrative and procedural processes to install conservation-based regulations allowing limited harvest of steelhead with lower efficiency gear in the federal subsistence fisheries. Due to continuously expansive federal subsistence harvest provisions,² the Department has been forced to submit a more restrictive conservation-based set of regulations disallowing steelhead retention to the Alaska Board of Fisheries and the Federal Board. Regulations this restrictive would be unnecessary, and some additional harvest could be allowed, if the Federal Board mirrored more stringent state regulations on smaller streams. Because the Federal Board has not done so, these more restrictive retention closures are needed in order to protect small stocks

¹ Even a regulation that is an exact duplicate of a state regulation provides a subsistence priority, because in times of shortage non-federal users are restricted first.

² Although federal officials are currently attaching bait and size limits to some permits, these permit restrictions are less enforceable than regulatory restrictions. Other members of the public may not be aware of permit restrictions and are less likely to report potential violations than where restrictions are explicitly spelled out by regulation. Similarly, some individuals may believe that, because harvest is allowed by regulation, failure to obtain a permit is simply a “paper violation” without real conservation impacts. They may choose to ignore the permit provision and thus avoid the substantive limits imposed through permits unless they have the unlikely misfortune of being contacted by an enforcement officer in the field.

ADF&G Comments FP09-03
December 2, 2008, Page 2 of 5

exposed to the more efficient methods and means and higher harvest limits approved by the Federal Board.

This conservation-based proposal essentially mirrors and complements the restrictive proposal (#290) submitted to the Alaska Board of Fisheries for the February 17-26, 2009, meeting. This proposal would modify federal subsistence regulations regarding steelhead trout harvest in freshwaters on federal public land in Southeast Alaska. It would help ensure conservation of steelhead trout stocks in small unmonitored streams throughout Southeast Alaska. These proposed modifications to the federal regulations, which have not been directly considered before, are necessary to address the state's conservation concerns with existing federal harvest limits and methods and means. The proposed provisions include:

- Restricting harvest of steelhead to designated systems and seasons.
- Allowing harvest of steelhead only from streams that contain harvestable surpluses as determined by the Department, e.g., by monitoring or surveys.³
- Prohibiting use of bait in all freshwaters where steelhead may be present from November 16 through September 14, except in designated systems and seasons where retention of steelhead is authorized.
- Restricting use of bait in the designated systems and seasons when a daily, seasonal, or annual limit of steelhead trout has been harvested by a subsistence user.⁴
- Prohibiting snagging where a size limit applies to a species present in the area.
- Prohibiting possession of subsistence and sport-harvested steelhead on the same day.
- Prohibiting accumulation of federal and state sport fishing harvest limits for steelhead.

If the Federal Board does not enact one or more of the above conservation measures previously recommended by the Department, then unnecessary impacts on other uses will occur. This would be contrary to the intent and spirit of ANILCA §815. The Alaska Board of Fisheries may conclude it has no choice but to protect steelhead by closing most freshwaters of Southeast Alaska to all retention of steelhead, and, if subsistence harvest of steelhead continues to grow, perhaps to other fishing, to protect steelhead stocks.⁵ Adoption of this proposal is not the ideal

³ According to the Department, 16 streams currently meet this level of harvestable surplus.

⁴ As explained later in these Comments, prohibition of bait is already a standard stipulation under certain circumstances in many Southeast federal permits, so enacting a regulation to the same effect should have little to no impact on law-abiding users. Restrictions on use of bait are particularly important where release of fish may be required, because use of bait raises steelhead hooking mortality as high as 10 percent, whereas the average hooking mortality is 2-3 percent without bait.

⁵ Once a non-retention provision is adopted, the only tool available to the Board of Fisheries for improving steelhead survival may be complete closure of other freshwater fisheries where steelhead may be present in order to eliminate incidental mortality associated with nonretention. Even complete closure, however, might have minimal benefits for steelhead stocks. Hooking mortality is most likely in the range of 2-3 percent when bait is not used – (mortality figures presented in the federal staff analyses are inaccurate). Causing the State to close all sport fishing would be inconsistent with balancing ANILCA's competing goals, such as recreation and sport fishing. The Ninth Circuit Court recognized that balance is an important permissible consideration in *Ninilchik Traditional Council v. United States*, 227 F.3d 1186, 1192 (9th Cir.). It would be incongruous to close all sport fishing within state, private, and national forest lands in order to address conservation issues created by the current federal subsistence harvest provisions for a subsistence harvest that has been minimal to date but threatens sustainability of small stocks.

ADF&G Comments FP09-03
December 2, 2008, Page 3 of 5

solution, but if the Federal Board continues to allow higher harvest limits and more efficient methods and means in its general regulations, this proposal will be necessary to provide for conservation of small steelhead stocks.

Impacts to Subsistence Users: The 2007 federal staff analysis to the Southeast Regional Advisory Council (pp. 126-127) and Federal Board reported only 100 steelhead were harvested under federal subsistence permits in the past three years. Although this number is not high, the actual recent numbers of steelhead taken may be higher because a recent study indicates that permit and reporting compliance rates are low (Turek 2005). On the other hand, if the federal subsistence harvest of steelhead is in fact low, adoption of this proposal should have no significant impact on subsistence.

If this proposal is adopted, the federal subsistence steelhead fishery in Southeast Alaska will continue to provide a meaningful preference for subsistence use of steelhead, but the harvest effort will be focused on monitored or surveyed streams where permit conditions could be developed to prevent overharvest. If this proposal is adopted, the use of bait may be reduced in some streams in order to protect both juvenile and adult steelhead trout, but should not significantly impact subsistence harvests.

Opportunity Provided by State: Steelhead trout, where taken incidentally by gear operated under terms of a state subsistence permit or combined subsistence/personal use permit for salmon, may be legally harvested and possessed. Reported incidental harvest from Southeast Alaska personal use and subsistence fisheries from 2003-2007 was a total of seven fish. The holder of a state subsistence salmon permit must report any steelhead incidentally taken in this manner on his or her permit calendar. The State has a comprehensive package of sport, personal use, commercial, and subsistence regulations that work together to conserve steelhead and provide a limited opportunity for subsistence harvest and use. These include a length restriction of 36" or more, which is 2% to 3% of the steelhead stocks in most Southeast systems and up to 5% of the steelhead in the larger Situk system. The 36" length restriction is especially effective when applied to smaller systems, which tend to produce smaller steelhead. In some small Southeast systems, less than 1% of the steelhead may reach 36" or more. Additional restrictions are bait and snagging prohibitions in the sport fishery, and restrictions on harvest in net fisheries that reduce bycatch of steelhead (including prohibitions on the sale of steelhead captured in net fisheries).

A state subsistence fishery for steelhead in the Situk River was established in 1988 by the Alaska Board of Fisheries (5 AAC 01.680 (d)). One state subsistence permit was issued in the last 20 years for the Situk River, and that permit was not fished. Although this state steelhead subsistence fishery allows directed harvest of steelhead, the Situk River is among the best understood and studied steelhead rivers in Alaska. The Situk River is an excellent example of a monitored steelhead stock which will continue to allow harvest of steelhead under proposed regulatory changes submitted to the Alaska Board of Fisheries and the Federal Board as long as continued monitoring evidences a harvestable surplus is available.

Conservation Issues: Current federal subsistence regulations and permit conditions are not conservative enough to ensure conservation of steelhead trout stocks in Southeast Alaska

ADF&G Comments FP09-03
December 2, 2008, Page 4 of 5

freshwater systems, especially the “smaller” (<100 annual escapement), easily accessed systems that may receive intensive pressure. Steelhead fisheries with less conservative regulations than current regional sport fishery steelhead regulations may not be sustainable. The only active steelhead monitoring program in Southeast Alaska occurs annually on 16 systems, and the necessary information required to evaluate increased subsistence harvest levels is simply not available. To compensate for potential cumulative overexploitation of steelhead stocks, the Department submitted proposal number 290 to the Alaska Board of Fisheries to severely restrict the sport fishery on all unmonitored steelhead stocks. Proposal 290 (Attachment 1), which would close all but 16 systems in Southeast Alaska to steelhead retention, will be considered by the Alaska Board of Fisheries at its February 2009 meeting.

Declines in steelhead population were evident in Southeast Alaska prior to 1994 under the sport fishing regulations then in effect, which were similar to current federal subsistence regulations. In 1994, the Alaska Board of Fisheries enacted more conservative regulations for steelhead in Southeast Alaska, and these more restrictive regulations have successfully contributed to reversing the decline in steelhead populations observed in the late 1980s and early 1990s.

Most steelhead populations in Southeast Alaska receive an annual escapement of 200 or fewer fish, with only a handful of systems regularly receiving escapements over 500. Nearly all Southeast Alaska steelhead stocks are difficult or impossible to assess accurately or monitor on a regular basis. Without basic specific stock status information available, the steelhead stocks in Southeast Alaska need to be managed conservatively and may only be sustained with very low harvest rates of 10 percent or less. History has shown that levels of harvest opportunity provided by the federal subsistence regulations cannot be sustained in absence of an intensive stock assessment program.

In the absence of restrictive methods and means provisions and harvest limitations similar to those provided in state regulations, federal subsistence harvest of steelhead trout should only be authorized in waters with an active stock assessment program or a documented annual escapement large enough to withstand an increase in harvest. Federal authorization to allow the use of bait for subsistence steelhead users and required retention of steelhead caught with bait effectively eliminates any minimum size limit and does not protect steelhead smolt as they emigrate to saltwater. State regulations protect nearly all steelhead smolt under the no-bait and minimum size limit (11 inches) regulations. Federal officials are currently attaching stipulations to permits matching state regulations concerning size limits and prohibiting bait use for the streams crossing the Sitka road system. Federal officials currently prohibit the use of bait where a minimum size limit is established by federal permit stipulation. Other Southeast Alaska road systems that are crossed by streams with steelhead have minimum size limits, though not as conservative as in State regulations, and bait prohibitions. Little impact to federal users would result from changing the regulation to mirror existing bait and size restrictions along the Southeast Alaska road system federal subsistence steelhead fisheries. On the other hand, there are some small systems on Prince of Wales Island that do not have any size limitations attached to the permit. This illustrates the State’s concern that the federal designated official for these systems, for example, is not taking a conservative enough approach to protect these small accessible steelhead fisheries. If these restrictions were in regulation rather than dependent on

ADF&G Comments FP09-03
December 2, 2008, Page 5 of 5

the discretion of area officials to apply as stipulations on permits, the State's concern for conservation of these small systems would be reduced.

As previously discussed, permit conditions establish less of a community standard for compliance than do regulatory standards. The existing federal regulations are inconsistent with the sound management of these discrete steelhead stocks and will likely result in unnecessary restrictions on other uses. Adoption of this proposal would provide for necessary conservation, would still provide a meaningful subsistence priority, and would prevent unnecessary restrictions on other users.

The Department urges the Federal Board to respect the Department's concerns for stock conservation. Federal subsistence limits and regulations are creating the potential for unnecessarily impacting the sustainability of distinct Southeast steelhead stocks. Stock assessment and the acquisition of reliable stock status data for numerous small steelhead stocks are necessary before continuing to authorize an expanded federal subsistence take of these unique fish in Southeast Alaska under federal fishing and harvest regulations.

Due to the continuation of the federal take provisions, the Department has been forced to present a more restrictive conservation-based set of regulations to the Alaska Board of Fisheries and the Federal Board. Although less restrictive alternatives are preferable and some additional harvest could be allowed if the Federal Board mirrored more restrictive state regulations on smaller streams, absent that response from the Federal Board, more restrictive provisions including closures to retention are needed to protect small stocks.

Enforcement issues: Enforcement issues often create conservation issues, and there remains a question whether the federal permit system reflects actual participation and harvest of steelhead throughout Southeast Alaska. Low numbers of permits issued may reflect a lack of compliance with the requirement to have a permit and taking fish outside permit stipulations. Data from recent studies indicate that not all subsistence users are obtaining permits (Turek 2005), so permit stipulations may not be effective even if well-designed. Some fishers who may ignore permit provisions may be more likely to comply with regulatory harvest limits and restriction requirements on methods and means.

Jurisdiction Issues: Many streams in Southeast Alaska that support steelhead flow through nonfederal land. The State disputes many of the federal reserved water right claims in Southeast Alaska and the application of federal subsistence regulations in numerous streams and rivers that are not within federal lands. Detailed maps are needed of lands where federal jurisdiction is claimed and the federal basis for each of these claims should be explained. In addition, fishers need to be provided copies of these detailed maps to help ensure they are not cited for standing on State or private lands while using federal methods and means.

Recommendation: Support. The Department would also consider supporting less restrictive alternatives, previously rejected by the Federal Board, that address the concerns resulting in this proposal and provide for the conservation of small steelhead stocks.

WRITTEN PUBLIC COMMENTS

Oppose. This proposal attempts to do several things at once. Most of the changes are improvements or changes of little consequence, however, I find the proposed change to section (iv)(A) to be unnecessarily restrictive and potentially dangerous to the resource. Restricting steelhead harvest to only streams with “adequate monitoring or surveys” will have several adverse consequences. First off, such monitoring takes staff time and money. As regulatory agencies see their budgets squeezed, these efforts will be reduced and harvest opportunities eliminated for political and financial, rather than biological reasons. Secondly, publishing a list of streams open to harvest will necessarily promote fishing and thus increase harvest in these locations. This increased publicity could ironically result in the over-harvest that this proposal is trying to avoid. Currently, different fishermen access different streams at different times of year. No single fisherman is allowed to harvest more than two fish a year under the current restrictive bag limit. Hence, current harvest is spread thinly over many streams. These runs are numerous. Most of them are small but healthy populations capable of sustaining a very limited (but greater than zero) harvest. Focusing all of the regional harvest on a handful of streams is moving the wrong direction as there are very few systems that product large numbers of steelhead.

Rather than a list of streams open to steelhead harvest, the regulations should individually list streams that are closed to harvesting, thus eliminating the problem of promoting harvest in specific drainages. If current reporting requirements are not sufficient for the fisheries managers to identity populations that are being harvested at high levels, the reporting requirements should be changed to accomplishing this. Streams with relatively heavy steelhead harvest could be candidates for the imposition of a reasonable size limit (accompanied by a ban on bait) that would ensure than a substantial fraction of the run was protected, while allowing some larger, older fish (which presumable have spawned at least once already, thus maintaining genetic diversity) to be harvested.

Submitted by Tad Fujioka, Sitka

Support. Kenai River Sportfishing Association supports this proposal as a means to blend the subsistence preference among qualified users with the realities of managing small fragile stocks of steelhead where the budget and infrastructure does not exist to allow for comprehensive monitoring.

Steelhead in Southeast Alaska are conservatively managed by the State in response to a lack of technical information concerning steelhead life history and sustainability. Very conservative catch and release regulations are in place as a means to afford protection for many small and fragile steelhead stocks. Some steelhead streams sustain only minimal numbers (less than 10 spawning pairs) of fish.

It is our understanding that this regulation change will ensure the conservation of steelhead trout stocks in Southeast Alaska and it will compliment anticipated changes in State regulations (being submitted the Alaska Board of Fisheries) to ensure sustainable management of Southeast steelhead stocks.

The change, while intended to be a conservation tool, will continue to provide a meaningful preference for subsistence use of steelhead, by allowing a harvest opportunity on streams where a monitoring program exist and where permit conditions adequate to prevent over harvest can be implemented.

Submitted by Kenai River Sportfishing Association